

ASSEMBLY, No. 1441

STATE OF NEW JERSEY

220th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2022 SESSION

Sponsored by:

Assemblyman JAMES J. KENNEDY

District 22 (Middlesex, Somerset and Union)

Assemblyman ANTHONY S. VERRELLI

District 15 (Hunterdon and Mercer)

Assemblyman KEVIN J. ROONEY

District 40 (Bergen, Essex, Morris and Passaic)

SYNOPSIS

Requires State entities engaging in projects resulting in deforestation of any size to submit plan to DEP for no net loss of forested areas.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning the removal of trees by State entities and
2 amending P.L.1993, c.106.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 2 of P.L.1993, c.106 (C.13:1L-14.2) is amended to
8 read as follows:

9 2. a. Each State entity, by July 1, 1993, and at least annually
10 thereafter, shall develop, and submit to the Division of Parks and
11 Forestry in the Department of Environmental Protection, a plan for
12 compensatory reforestation for **[all]** any areas **[at least one-half**
13 **acre in size]** that are owned or maintained by that State entity and
14 are scheduled for deforestation. A reforestation plan required
15 pursuant to this act shall establish a goal of no net loss of existing
16 forested area based upon a reasonable and practical Tree
17 Replacement Factor developed due to the act of deforestation and in
18 accordance with this act. The plan shall be subject to approval of
19 the division after review and comment by the Community Forestry
20 Council established pursuant to section 5 of P.L.1996, c.135
21 (C.13:1L-17.5). No project that would deforest land **[at least one-**
22 **half acre in size]** that is owned or maintained by a State entity may
23 be commenced without approval of that State entity's plan by the
24 division.

25 A reforestation plan shall provide that, if tree planting adjacent
26 to the deforested area is not feasible, it shall be conducted in the
27 following order: within the municipality in which the deforestation
28 occurred, within five miles of the site of deforestation, or off-site.

29 b. A reforestation plan developed pursuant to this section shall
30 include appropriate and approved methods for the planting,
31 protection, care and management of trees and other related natural
32 resources. With the advice and assistance of the Community
33 Forestry Council, the division shall develop and make available to
34 State entities a list of guideline elements that shall be required in a
35 reforestation plan. These guidelines shall establish but not limit the
36 basic framework of an approved reforestation plan.

37 A reforestation plan developed pursuant to this section shall
38 provide that:

39 (1) if the division determines that it is not feasible to conduct
40 the tree planting efforts on-site, then the tree planting shall be
41 conducted first on State property within the municipality in which
42 the deforestation occurred or municipal property within the
43 municipality in which the deforestation occurred. Municipal
44 property may include property owned or maintained by that

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

- 1 community including but not limited to parks, streets, schools,
2 municipal facilities, and open space and recreation areas;
- 3 (2) if the division determines that it is not feasible to conduct
4 the tree planting efforts on-site or within that municipality, then the
5 tree planting shall be conducted within five miles of the site of the
6 deforestation. Sites within five miles of the site of deforestation
7 may include property owned or maintained by the State, county or
8 other municipal entity;
- 9 (3) if the division determines that it is not practicable to conduct
10 the tree planting efforts on-site, within the municipality or five
11 miles of the site, then the tree planting shall be conducted off-site
12 by the State entity. Off-site property may include property owned
13 or maintained by a State entity other than the one developing and
14 implementing the plan if the State entity that is to receive the
15 benefits of the off-site tree planting efforts agrees thereto;
- 16 (4) the State entity shall use native species when practicable;
- 17 (5) the shape or configuration of the reforested area may be
18 substantially similar to the shape or configuration of the deforested
19 area;
- 20 (6) the replacement of trees shall be determined by the Tree
21 Replacement Factor and shall be based upon accepted forestry
22 research and practices which show the average tree density within
23 urban areas to be 204 trees per acre of tree cover;
- 24 (7) in using the Tree Replacement Factor (TRF) for sites that are
25 deforested the following number of stems shall be calculated for
26 seeding, caliper and whip/container trees:
- 27
$$\text{TRF} = 204 (2'' - 2\frac{1}{2}'') \text{ caliper trees per acre}$$

28
$$= 408 \text{ whip/container } (4' - 6') \text{ trees per acre}$$

29
$$= 1210 \text{ tree seedlings per acre};$$
- 30 (8) the seedlings shall be planted from six to 10 feet apart, or at
31 a distance mutually agreed to by the division and the State entity,
32 and that the seedlings are obtainable from a tree nursery owned and
33 operated by the State. Subject to availability from a State tree
34 nursery, the seedlings used in reforestation by a State entity
35 pursuant to this act shall be those that are the most suitable for the
36 site; and
- 37 (9) the species of caliper nursery grown trees measured at two
38 and one half inches and whips at one and one half inches shall be
39 planted based upon the approved planting plan and subject to the
40 standards established by the American Association of Nurserymen.
41 Trees to be planted shall be selected from those recommended in
42 the publication entitled "Trees for New Jersey Streets" published by
43 the New Jersey Shade Tree Federation and in accordance with the
44 recommended planting specifications. Diversity in species
45 composition shall be required to reduce the risk of widespread loss
46 of trees to single insect and disease infestation and, therefore,
47 similar species shall not exceed 30 percent of the total planting.

1 c. The State entity shall enter into a memorandum of
2 agreement with the division that guarantees the division
3 reimbursement for actual labor hours attributable to the review and
4 implementation of that State entity's reforestation plan pursuant to
5 this act. If the compensatory reforestation as required by this act
6 cannot be accomplished on the site of the project by the State entity,
7 the division and the State entity may mutually agree within the
8 memorandum of agreement that the State entity responsible for the
9 deforestation shall pay an amount equal to the value of the number
10 of trees required as determined by the Tree Replacement Factor and
11 in accordance with an approved plan. This payment shall be
12 deposited in the "Shade Tree and Community Forest Preservation
13 License Plate Fund," established pursuant to section 12 of P.L.1996,
14 c.135 (C.39:3-27.81), and shall be expended for reforestation by the
15 division with the advice of the Community Forestry Council and the
16 approval of the director of the division. The memorandum of
17 agreement shall be part of the State entity's plan for compensatory
18 reforestation.

19 (cf: P.L.2001, c.10, s.1)

20
21 2. This act shall take effect immediately.
22
23

24 STATEMENT 25

26 This bill would expand current law to require State entities
27 engaging in projects of any size resulting in deforestation to submit
28 a plan to DEP for no net loss of forested areas. The requirement to
29 develop a reforestation plan, commonly called the no net loss
30 compensatory reforestation program, currently applies to State
31 entities that are engaging in projects that would deforest land at
32 least one-half acre in size.

33 This bill would eliminate the one-half acre threshold and require
34 State entities to develop and submit a plan for compensatory
35 reforestation of areas of any size that are scheduled for
36 deforestation. The New Jersey Global Warming Response Act 2020
37 80x50 Report recommended that lowering or eliminating the one-
38 half acre threshold could help to ensure greater protection of the
39 State's natural resources.

40 Compensatory reforestation plans are required to be approved by
41 the Division of Parks and Forestry in the Department of
42 Environmental Protection prior to the commencement of a
43 deforestation project. Compensatory reforestation plans provide for
44 the maturity of the forest that is to be deforested to be assessed and
45 for the reforestation plan to provide for comparable tree density
46 based on accepted forestry and research practices, so that there is no
47 net loss of trees across the State as a result of deforestation projects.

- 1 This effort will help to ensure that trees deforested, as a result of
- 2 construction projects, are replanted elsewhere.